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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 JENNIFER A. CRAVEN,

12 Plaintiff,

13 v.

14 DAVIS, et al.,

15 Defendants.

CASE NO. 3:24-CV-5461-TSZ-DWC

ORDER GRANTING MOTION FOR
APPOINTMEN OF COUNSEL AND
DIRECTING *PRO BONO*
COORDINATOR TO IDENTIFY *PRO
BONO* COUNSEL

16 On June 11, 2025, the Honorable Thomas S. Zilly, the Senior District Judge assigned to
17 this case, adopted the undersigned's Report and Recommendation and denied Defendants Davis
18 and Green's Motion for Summary Judgment. Dkt. 25. Judge Zilly referred the matter back to the
19 undersigned for pretrial matters and to determine whether Plaintiff Jennifer Craven would like to
retain an attorney. *Id.*

20 Based on the referral from Judge Zilly, the undersigned directed Plaintiff to file a motion
21 for appointment of counsel or a response notifying the Court of her intent to continue to litigate
22 this case without counsel. Dkt. 27. On June 25, 2025, Plaintiff filed a Motion for Court-

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1 Appointed Counsel. Dkt. 27.¹ After review of the record, Plaintiff's Motion for Court-Appointed
 2 Counsel (Dkt. 27) is GRANTED and the Court refers this matter to the *pro bono* coordinator for
 3 appointment of counsel from the Western District Pro Bono Panel to represent Plaintiff in this
 4 matter.

5 **I. Discussion**

6 *A. Request for Court-Appointed Counsel*

7 No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v.*
 8 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S.*
 9 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is
 10 discretionary, not mandatory"). However, in "exceptional circumstances," a district court may
 11 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28
 12 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*
 13 *grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the
 14 Court must evaluate both "the likelihood of success on the merits [and] the ability of the
 15 [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved."
 16 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718
 17 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing she has an insufficient grasp
 18 of her case or the legal issues involved and an inadequate ability to articulate the factual basis of
 19 her claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

20 Plaintiff has been attempting, unsuccessfully, to obtain counsel since January of 2025.
 21 Dkt. 27. Plaintiff's claims have survived summary judgment and this case is being readied for
 22

23 ¹ The Court notes Defendants' have not filed a response and the time to do so has not expired. However,
 24 the Court has determined a response to the Motion is not necessary in this instance.

1 trial. As Plaintiff is incarcerated, it will be very difficult for her to litigate this case at trial
 2 without counsel. Plaintiff has shown the potential for success on the merits and has shown a
 3 difficulty litigating this case. Therefore, the Court concludes exceptional circumstances exist in
 4 this case which allow the Court to assist Plaintiff in securing counsel. Plaintiff's Motion (Dkt.
 5 27) is granted.

6 B. *Requesting Voluntary Assistance of Counsel*

7 While the Court lacks the authority to require counsel to represent indigent prisoners in a
 8 § 1983 case, *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989), the Court may
 9 request voluntary assistance of counsel pursuant to 28 U.S.C. §1915(e)(1). *Terrell v. Brewer*, 935
 10 F.2d 1015, 1017 (9th Cir. 1991). In this case, the Court finds the interest of justice will best be
 11 served if counsel from the Western District Pro Bono Panel is appointed to represent Plaintiff in
 12 this matter. *See Johnson v. California*, 207 F.3d 650, 656 (9th Cir. 2000) (per curiam) (stating
 13 that appointment of counsel may be justified when a proceeding will go forward “more
 14 efficiently and effectively”).

15 **II. Conclusion and Directions to Clerk**

16 For the above stated reasons, Plaintiff's Motion for Court-Appointed Counsel (Dkt. 27) is
 17 granted and Plaintiff is appointed counsel, contingent on the identification of counsel willing to
 18 represent Plaintiff in this matter. The Western District of Washington's *pro bono* coordinator is
 19 directed to identify counsel to represent Plaintiff, in accordance with the Court's General Order
 20 07-23, Section 3.

21 The Court finds this matter shall be stayed while the *pro bono* coordinator attempts to
 22 identify counsel. Once it has been determined whether the Court will be able to appoint an
 23 attorney to represent Plaintiff, the Court will issue any additional appropriate orders.

The Clerk is directed to stay this case and provide a copy of this Order to the *pro bono* coordinator.

Dated this 2nd day of July, 2025.

David W. Christel
David W. Christel
United States Magistrate Judge

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